

## Small Business Administration

## § 121.103

121.1202 When will a waiver of the Non-manufacturer Rule be granted for a class of products?

121.1203 When will a waiver of the Non-manufacturer Rule be granted for an individual contract?

121.1204 What are the procedures for requesting and granting waivers?

121.1205 How is a list of previously granted class waivers obtained?

AUTHORITY: 15 U.S.C. 632(a), 634(b)(6), 636(b), 637(a), and 644(c), and 662(5); and sec. 304, Pub. L. 103-403, 108 Stat. 4175, 4188, Pub. L. 106-24, 113 Stat. 39.

SOURCE: 61 FR 3286, Jan. 31, 1996, unless otherwise noted.

### Subpart A—Size Eligibility Provisions and Standards

#### PROVISIONS OF GENERAL APPLICABILITY

#### § 121.101 What are SBA size standards?

(a) SBA's size standards define whether a business entity is small and, thus, eligible for Government programs and preferences reserved for "small business" concerns. Size standards have been established for types of economic activity, or industry, generally under the North American Industry Classification System (NAICS).

(b) NAICS is described in the *North American Industry Classification Manual—United States*, which is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; by calling 1(800) 553-6847 or 1(703) 605-6000; or via the Internet at <http://www.ntis.gov/yellowbk/Inty205.htm>. The manual includes definitions for each industry, tables showing relationships between 1997 NAICS and 1987 SICs, and a comprehensive index. NAICS assigns codes to all economic activity within twenty broad sectors. Section 121.201 provides a full table of small business size standards matched to the U.S. NAICS industry codes. A full table matching a size standard with each NAICS Industry or U.S. Industry code is also published annually by SBA in the FEDERAL REGISTER.

[65 FR 30840, May 15, 2000, as amended at 67 FR 52602, Aug. 13, 2002]

#### § 121.102 How does SBA establish size standards?

(a) SBA considers economic characteristics comprising the structure of an industry, including degree of competition, average firm size, start-up costs and entry barriers, and distribution of firms by size. It also considers technological changes, competition from other industries, growth trends, historical activity within an industry, unique factors occurring in the industry which may distinguish small firms from other firms, and the objectives of its programs and the impact on those programs of different size standard levels.

(b) As part of its review of a size standard, SBA will investigate if any concern at or below a particular standard would be dominant in the industry. SBA will take into consideration market share of a concern and other appropriate factors which may allow a concern to exercise a major controlling influence on a national basis in which a number of business concerns are engaged. Size standards seek to ensure that a concern that meets a specific size standard is not dominant in its field of operation.

(c) As part of its review of size standards, SBA's Office of Size Standards will examine the impact of inflation on monetary-based size standards (*e.g.*, receipts, net income, assets) at least once every five years and submit a report to the Administrator or designee. If SBA finds that inflation has significantly eroded the value of the monetary-based size standards, it will issue a proposed rule to increase size standards.

(d) Please address any requests to change existing size standards or establish new ones for emerging industries to the Assistant Administrator for Size Standards, Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

[61 FR 3286, Jan. 31, 1996, as amended at 67 FR 3045, Jan. 23, 2002]

#### § 121.103 What is affiliation?

(a) *General Principles of Affiliation.* (1) Concerns are affiliates of each other when one concern controls or has the power to control the other, or a third